

HOUSE BILL 1133  
By Buck

AN ACT to amend Tennessee Code Annotated, Title 2,  
Chapter 10; Title 3, Chapter 6; Title 8, Chapter 50,  
Part 5 and Title 12, relative to ethics.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by  
adding the following new sections:

Section 2-10-122.

As used in §§ 2-10-123, 2-10-124 and 2-10-125, unless the context otherwise  
requires:

(1) The term "consulting services" with respect to an official in the legislative  
branch, an official in the executive branch, or the immediate family of either type of  
official, means services for influencing legislative or administrative action as such term is  
defined in § 3-6-102(11), including services to advise or assist a person or entity in  
maintaining, applying for, soliciting or entering into a contract with the state. The term  
"consulting services" does not mean the practice or business of law in connection with  
representation of clients by a licensed attorney in an administrative procedure or  
contested case action.

(2) The term "consulting services" with respect to a municipal or county official,  
or the immediate family of either type of official, means services for influencing  
legislative or administrative action of the county or municipality which the official  
represents, as such term is defined in § 3-6-102(11) with respect to officials of the  
legislative or executive branch, including services to advise or assist such person or  
entity in maintaining, applying for, soliciting or entering into a contract with the

municipality or county represented by such official. The term "consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in an administrative procedure or contested case action.

(3) The term "immediate family" has the same meaning as such term is defined in § 3-6-102(10).

(4) The term "official in the executive branch" means the governor, any member of the governor's staff or any person in the executive service as such term is defined in § 8-30-208(b); provided, however, that such term shall not include members of boards and commissions who receive only expenses or a nominal per diem not to exceed six hundred dollars (\$600) per month, unless they provide consulting services for compensation with respect to the activities of the board or commission of which they are a member.

(5) The term "official in the legislative branch" has the same meaning as such term is defined in § 3-6-102(17).

Section 2-10-123.

(a)

(1) If any person or other entity that does business with the state in any capacity, any subsidiary of such person or entity, any entity that contracts with such person or entity or any entity that contracts with an entity that contracts with such person or entity, pays a fee, commission or any other form of compensation to an official in the legislative branch, an official in the executive branch, or the immediate family of either type of official, for consulting services, then such person or entity, or subsidiary or contractor of such person or entity shall disclose the following to the registry of election finance:

- (A) The person to whom the fee was paid;
- (B) The position of the person to whom the fee was paid;
- (C) The amount of the fee;
- (D) The date the services were rendered; and
- (E) A description of the services rendered.

(2) If any person or other entity that does business with a municipality or county within the state in any capacity, any subsidiary of such person or entity, any entity that contracts with such person or entity or any entity that contracts with an entity that contracts with such person or entity, pays a fee, including a retainer, commission or any other form of compensation to a municipal or county official, or the immediate family of either type of official, for consulting services, such person or entity, or subsidiary or contractor of such person or entity shall disclose to the registry of election finance the same information for such officials as required pursuant to subdivision (1) for officials in the legislative or executive branch.

(b) The disclosure shall be on a form designed by the registry of election finance, shall be made under oath, and shall contain a statement that a false statement on the report is subject to the penalties of perjury. A disclosure form shall be filed each time compensation for consulting services is paid to one of the officials named in subsection (a). The person or entity, or subsidiary or contractor of such person or entity, paying the consulting fee shall have thirty (30) days from the date such fee is paid to file a disclosure form as required by this section.

(c) All disclosures made to the registry pursuant to this section are public records and open for inspection during regular business hours.

(d)

(1) It is a Class A misdemeanor for any person or entity, or subsidiary or contractor of such person or entity, to knowingly fail to file a disclosure form as required by this section.

(2) It is a Class C misdemeanor for any person or entity, or subsidiary or contractor of such person or entity, to file a disclosure form as required by this section more than thirty (30) days after the date on which a consulting fee for which disclosure is required is paid.

Section 2-10-124.

(a)

(1) Any member of the general assembly or member elect of the general assembly who receives a fee, commission or any other form of compensation for consulting services from a person or entity doing business with the state, any subsidiary of such person or entity, any entity that contracts with such person or entity or any entity that contracts with an entity that contracts with such person or entity, shall be required to make the same disclosure required by § 2-10-122.

The registry of election finance may devise a new form for disclosure of consulting fees by members of the general assembly or members elect of the general assembly or may modify the one required by § 2-10-122 for use by all parties required to disclose.

(2) Any member of a municipal or county legislative body or member elect of a municipal or county legislative body who receives a fee, including a retainer, commission or any other form of compensation for consulting services from a person or entity doing business with the municipality or county represented by such official, any subsidiary of such person or entity, any entity that contracts with such person or entity or any entity that contracts with an entity

that contracts with such person or entity, shall be required to make the same disclosure required by § 2-10-122. The registry of election finance may devise a new form for disclosure of consulting fees by members of a municipal or county legislative body or members elect of a municipal or county legislative body or may modify the one required by § 2-10-122 for use by all parties required to disclose.

(b) All disclosures made to the registry pursuant to this section are public records and open for inspection during regular business hours.

(c)

(1) It is a Class A misdemeanor for a member of the general assembly or member elect of the general assembly to receive a fee, commission or any other form of compensation for consulting services from a person or entity doing business with the state, a subsidiary of such person or entity, an entity that contracts with such person or entity or an entity that contracts with an entity that contracts with such person or entity, and knowingly fail to disclose such fee as required by this section.

(2) It is a Class A misdemeanor for a member of a municipal or county legislative body or member elect of a municipal or county legislative body to receive a fee, including a retainer, commission or any other form of compensation for consulting services from a person or entity doing business with the municipality or county represented by such official, a subsidiary of such person or entity, an entity that contracts with such person or entity or an entity that contracts with an entity that contracts with such person or entity, and knowingly fail to disclose such fee as required by this section.

Section 2-10-125.

(a) The provisions of §§ 2-10-122, 2-10-123, and 2-10-124 do not apply to the services or actions of a person to whom this act otherwise would apply, if such person, with respect to such service or action, files a disclosure in accordance with the provisions of Tennessee Code Annotated, title 3, chapter 6, part 1;

(b) A copy of the report filed by a member of the general assembly pursuant to section 2-10-124 may be filed in lieu of a disclosure statement required pursuant to section 8-50-502 relative to the same income disclosed pursuant to section 2-10-123.

SECTION 2. Tennessee Code Annotated, Title 3, Chapter 6, Part 1, is amended by adding the following as new sections:

Section 3-6-115.

(a) Every employer of a lobbyist who makes expenditures or incurs obligations in an aggregate amount exceeding five hundred dollars (\$500) in a calendar year for the purpose of engaging in lobbying which is not exempt under this part shall, within ten (10) days after exceeding five hundred dollars (\$500), cause to be filed with the registry a registration statement specifying the employer of a lobbyist's name, business address, the general areas of legislative and administrative action which the employer of a lobbyist is attempting to influence, the names of any agencies in which the employer of a lobbyist seeks to influence administrative action, and information sufficient to identify the nature and interest of the employer of a lobbyist. The statement shall be signed, under the penalty for making false statements under § 39-16-702, by an individual identified under subdivision (5) who is authorized to represent the employer of a lobbyist. The statement shall include:

(1) If the employer of a lobbyist is an individual, the name and address of the individual's employer, if any, or the individual's principal place of business if self-employed, a description of the business activity in which the individual or the

individual's employer is engaged and, except as otherwise provided by subsection (c), the individual's social security number.

(2) If the employer of a lobbyist is a business entity, a description of the business activity in which the employer of a lobbyist is engaged and the name of its chief executive officer, or in the case of a partnership or limited liability company the names of the partners or members.

(3) If the employer of a lobbyist is an industry, trade or professional association, a description of the industry, trade or profession which it represents including a specific description of any segment or portion of the industry, trade or profession which the association exclusively or primarily represents and the name of the chief executive officer and the approximate number of its members.

(4) If the employer of a lobbyist is not an individual, business entity or industry, trade or professional association, a statement of the employer of a lobbyist's nature and purposes, including a description of any industry, trade, profession or other group with a common interest which the employer of a lobbyist primarily represents or from which its membership or financial support is primarily derived and the approximate number of its members.

(5) The name and position or relationship to the employer of a lobbyist of any designee who is authorized to sign other documents required under this section or this part.

(b) The registration shall expire on December 31 of each even-numbered year.

Unless authorized by subsection (c), the registry shall refuse to accept a registration statement filed by an individual who does not provide his or her social security number. The registry shall refuse to accept a registration statement filed by an individual or shall cause to be suspended in accordance with Tennessee Code Annotated, title 36, chapter

5, part 7, any existing registration of an individual for failure of the individual or registrant to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse. If all lobbying by or on behalf of the employer of a lobbyist which is not exempt under this part ceases, the registry shall terminate the employer of a lobbyist's registration and any authorizations as of the day after the employer of a lobbyist files a statement of cessation and expense statements under the following section for the period covering all dates on which the employer of a lobbyist was registered. Refusal to accept a registration statement or suspension of an existing registration is not subject to review.

(c) If an individual who applies for registration under this section does not have a social security number, the individual, as a condition of obtaining registration, shall submit a statement made or subscribed under oath or affirmation to the registry that the individual does not have a social security number. The form of the statement shall be prescribed by the department of labor and workforce development. A registration accepted in reliance upon a false statement submitted under this subsection is invalid.

(d) Each employer of a lobbyist registered under this section shall, before the employer of a lobbyist or a lobbyist for the employer of a lobbyist attempts to influence legislative or administrative action in any general area or agency not previously filed with the registry, provide written notice to the registry of the general area or agency in which the employer of a lobbyist or a lobbyist for the employer of a lobbyist will attempt to influence legislative or administrative action and in relation to which a lobbyist is employed.

Section 3-6-116.

(a) Every employer of a lobbyist which is registered pursuant to the preceding section shall, on or before July 31 and January 31, file with the registry an expense



statement covering the preceding reporting period. The statement shall be signed, under the penalty for making false statements provided in § 39-16-702, by an individual identified under subsection (a)(5) of § 3-6-115 who is authorized to represent the employer of a lobbyist. The statement shall contain the following information:

(1) The aggregate total amount of lobbying expenditures made and obligations incurred for lobbying by the employer of a lobbyist and all lobbyists for the employer of a lobbyist, excluding lobbying expenditures and obligations for the employer of a lobbyist's clerical employees, lobbying expenditures and obligations for any employee of the employer of a lobbyist who is not a lobbyist and who devotes not more than ten (10) hours to lobbying during a reporting period, and lobbying expenditures and obligations specified in subdivisions (2), (5) and (6). With respect to expenditures and obligations included in the amount reported under this paragraph:

(A) Lobbying expenditures made and obligations incurred for lobbying shall include compensation to lobbyists for lobbying, whether in cash or in-kind, and reimbursements to lobbyists and to the employer of a lobbyist or officers or employees of the employer of a lobbyist for lobbying or expenses.

(B) Except as provided in subsection (c), lobbying expenditures made and obligations incurred in preparing for lobbying shall be included in the aggregate total.

(C) A reasonable estimate of lobbying expenditures made and obligations incurred for conducting, compiling or preparing research, information, statistics, studies or analyses used in lobbying shall be included in the aggregate total. Lobbying expenditures and obligations

shall not be reported under this subdivision if the use in lobbying occurs more than three (3) years after the completion of the research or the compilation or preparation of the information, statistics, studies or analyses. If the research, information, statistics, studies or analyses are used by the employer of a lobbyist both for lobbying and for purposes other than lobbying, the employer of a lobbyist shall allocate the lobbying expenditures and obligations among the purposes for which the research, information, statistics, studies or analyses are used and include the portion allocated to lobbying in the aggregate total.

(D) Lobbying expenditures made and obligations incurred for providing or using research, information, statistics, studies or analyses in lobbying shall be included in the aggregate total.

(E) Lobbying expenditures made and obligations incurred for paid advertising and any other activities conducted for the purpose of urging members of the general public to attempt to influence legislative or administrative action shall be included in the aggregate total, if the total amount of all such lobbying expenditures made and obligations incurred exceeds five hundred dollars (\$500) during the reporting period.

(F) If the total amount of lobbying expenditures and obligations, included in the aggregate total under this subsection, made or incurred to any lobbyist for the employer of a lobbyist exceeds two hundred dollars (\$200) during the reporting period, the name and address of the lobbyist and the total amount of the lobbying expenditures made or obligations incurred to the lobbyist during the reporting period shall be listed.

(2)

(A) If a lobbyist is an employee, officer or director of an employer of a lobbyist and the lobbyist is paid a salary or given consideration other than reimbursement of expenses, the aggregate total amount of lobbying expenditures made or obligations incurred by the employer of a lobbyist for office space, utilities, supplies and compensation of employees who are utilized in preparing for lobbying communications. Any lobbying expenditures made or obligations incurred for office overhead costs which are included in the amount reported under subsection (a)(1)(A) shall not be included in the amounts reported under this paragraph.

(B) For each legislative proposal, proposed administrative rule, budget bill subject or other topic that accounts for ten percent (10%) or more of the employer of a lobbyist's time spent in lobbying during the reporting period, the employer of a lobbyist's reasonable estimate of the proportion of its time spent in lobbying associated with that legislative proposal, proposed administrative rule, budget bill subject or other topic.

(3) A record disclosing the amount of time spent to influence legislative or administrative action. The record shall be supplied on a form provided by the registry and shall include a daily itemization of the time, except the time of a clerical employee, the time of an employee who is not a lobbyist and who devotes not more than ten (10) hours to lobbying during a reporting period and the time of an unpaid volunteer, spent by the employer of a lobbyist on:

(A) Meeting with elective state officials, agency officials, legislative employees of the state and other state employees having decision-making authority.

(B) Research, preparation and any other activity which includes lobbying.

(4) The name of any employee of the employer of a lobbyist, other than a clerical employee, who is not a lobbyist and who devoted time to lobbying communications during the reporting period.

(5) The name of any agency official, legislative employee, elective state official or candidate for elective state office to whom the employer of a lobbyist or any lobbyist for the employer of a lobbyist provided reimbursement authorized under this chapter and the date and amount reimbursed.

(6) The total lobbying expenditures made and obligations incurred for personal travel and living expenses, except for expenditures made or obligations incurred for the travel and living expenses of unpaid volunteers if the primary purpose of the travel is for reasons unrelated to lobbying.

(b)

(1) If the employer of a lobbyist compensates or reimburses a lobbyist or employee both for lobbying and for other activities or expenses, for the purposes of subsection (a)(1)(A) or (F), the lobbyist or employer of a lobbyist shall estimate and report the portion of the compensation and reimbursements paid for nonexempt lobbying activities or expenses or, if eighty-five percent (85%) or more of the total compensation and reimbursements paid to the lobbyist or employee relate to lobbying or expenses which are not exempt under this chapter, the lobbyist or employer of a lobbyist may report the entire amount of the compensation and reimbursements paid to the lobbyist or employee.

(2) Any reasonable estimate or allocation made in good faith under subsection (a)(1)(C) or (a)(2)(B) or this subdivision fulfills the requirements of this section.

(3) An employer of a lobbyist may employ any reasonable method, acting in good faith, to record daily the information required under subsection (a)(3).

(c) A lobbyist whose activities and expenditures are required to be reported by an employer of a lobbyist under subsection (a) shall provide to the employer of a lobbyist information which the employer of a lobbyist determines is needed to prepare the statement. The employer of a lobbyist shall file a copy of the information, signed by the lobbyist under the penalty for making false statements provided in § 39-16-702, with the registry at the time of filing the statement under subsection (a).

(d) Each employer of a lobbyist and each lobbyist engaged by an employer of a lobbyist shall obtain, organize and preserve all accounts, bills, receipts, books, papers and other documents necessary to substantiate the expense statement, including an account identifying the amount of time that an employer of a lobbyist and each of its authorized lobbyists spend on lobbying each day, for three (3) years after the date of filing the expense statement. An employer of a lobbyist may permit its authorized lobbyist to maintain any of the records identified in this subsection on its behalf.

(e) If an employer of a lobbyist fails to timely file a complete expense statement under this section, the registry may suspend the privilege of any lobbyist to lobby on behalf of the employer of a lobbyist. Upon failure of an employer of a lobbyist to file the required expense statement, the registry shall mail written notices to the employer of a lobbyist and to any lobbyist for whom a written authorization has been filed under this part to act as a lobbyist for the employer of a lobbyist informing them that unless the employer of a lobbyist files the delinquent statement within ten (10) business days after

the date of mailing of the notices, no lobbyist may lobby on behalf of the employer of a lobbyist. The privilege of any lobbyist to lobby on behalf of the employer of a lobbyist shall be restored immediately upon filing the delinquent statement. The notices shall be sent by certified mail to the last-known addresses of the employer of a lobbyist and lobbyist. Any employer of a lobbyist or lobbyist who is aggrieved by a suspension of lobbying privileges under this subsection may request a hearing under the uniform administrative procedures act, codified in Tennessee Code Annotated, title 4, chapter 5, regarding the suspension.

SECTION 3. This act shall take effect July 1, 2005, the public welfare requiring it.